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C O N F I D E N T I A L SECTION 01 OF 03 RIYADH 000984

SIPDIS

NEA/ARP JHARRIS, G/TIP, DRL

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TAGS: [PGOV](#) [PHUM](#) [SA](#)
SUBJECT: SAUDI ARABIA MOVING TO IMPLEMENT NEW HUMAN
TRAFFICKING LAW

REF: SECSTATE 71880

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Classified By:
CDA Ambassador Richard W. Erdman for reasons 1.4 (b) and (d).

11. (U) This is an Action Request, see paragraphs 7.B.1 and
7.G.1.

SUMMARY

12. (SBU) Responding to demarche on the TIP Action Plan for
Saudi Arabia, an MFA official described recently enacted
comprehensive anti-trafficking legislation. Further, the
Saudi Council of Ministers also adopted a GCC-wide
anti-trafficking measure. The Saudi National Commission for
Human Rights will coordinate implementation of the new law
and has instructed government ministries to prepare
implementation plans by November 30. The official expressed
interest in possible U.S.-provided training or technical
assistance programs in areas such as victim identification
and public awareness, or training for Saudi law enforcement
and Ministry of Justice (MOJ) officials. End Summary.

FINALLY...AN ANTI-TRAFFICKING LAW IS PASSED

13. (U) Poloffs presented reftel demarche on the Trafficking
In Persons (TIP) Action Plan July 21 to Ministry of Foreign
Affairs (MFA) human rights chief Abdulrahman al-Rassi.
Al-Rassi is also a member of the Saudi National Commission
for Human Rights (NCHR). According to al-Rassi, the new law
is aimed mainly at trafficking of domestic workers and seeks
to protect those that are most vulnerable including women and
children. Although the official text of the new law has not
been made public yet, key points of the legislation were
published in Al-Hayat newspaper on July 16. Details of the
new legislation include:

- Article 1 defines trafficking as: the use, employment,
transfer, shelter or receiving of persons for the purpose of
exploitation.

- Article 2 indicates the scope of activity that can be
penalized under the law (prohibits any form of human
trafficking). Additional articles criminalize and note
sentences for various incarnations of trafficking and
accessorizing such crimes, including up to 15 years in jail
and hefty fines.

- Article 15 outlines protections that will be afforded to

victims including medical services and security if needed. However, clause 7 of the article does not mandate that a victim be allowed to stay in the Kingdom during legal proceedings, instead noting that "public prosecution and competent court may consider that."

- Article 17 places a timeline, noting that "this system will be functional after 90 days from its official publication."

¶4. (U) Contemporaneously, the Council of Ministers approved the implementation of a unified GCC law for combating human trafficking. According to al-Rassi, adoption of the GCC law by the Saudi Council of Ministers gives the GCC measure the same effect as a national law enacted by the Saudi government. Al-Rassi indicated that the Saudi government was serious about combating human trafficking as it is a "crime against both Saudi religion and culture." He noted that the two new anti-trafficking laws as well as a domestic workers rights bill recently passed by the Shura Council demonstrate the Saudi government's concerted effort to tackle human trafficking.

A STRATEGIC PLAN BY NOVEMBER

¶5. (SBU) Al-Rassi commented that the new law gives the NCHR the lead in coordinating and implementation of the new law, and that the NCHR will create a specific trafficking unit to carry out this responsibility. The NCHR has already begun coordinating with other ministries, he said, including the MFA, Ministry of Interior (MOI), Ministry of Social Affairs (MOSA), Ministry of Culture and Information (MOCI), and the Ministry of Justice (MOJ) to create a unified strategic plan

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on combating human trafficking which focuses on the implementation and enforcement of the new law. He expects the plan will be submitted to the new high-level ministerial committee for approval after Ramadan ends in late September. Al-Rassi said interministerial meetings on creating the strategic plan have been and will continue to be conducted each week until the plan is finalized.

¶6. (C) Al-Rassi stated that the NCHR expects to set November 30 as the deadline for the various ministries to demonstrate implementation of the new law as stated in Article 17 of the legislation. He added that public awareness of the new law and what constitutes human trafficking was a priority for the Saudi government and would be included in the strategic plan.

Al-Rassi noted that in the past, it has been very difficult to distinguish human trafficking from other crimes or even to criminalize trafficking as many customs and habits (now classified as trafficking) are not seen as crimes within Saudi Arabia. Al-Rassi indicated that the Saudi government was open to cooperation with the U.S. government on anti-trafficking training programs for social workers, law enforcement officials and judges.

HOW SAUDI ACTIONS MEASURE UP TO THE ACTION PLAN

¶7. (C) The new anti-trafficking law is a significant and timely step forward to address the elements of the TIP Action Plan. Below is Post's assessment of how Saudi actions measure up to the 2009 TIP Action Plan.

¶A. INCREASE NUMBER OF CRIMINAL PROSECUTIONS

The new anti-trafficking law defines and criminalizes human trafficking for the first time. Until now, the Saudi government has made no discernible efforts to criminally prosecute or punish trafficking offenses. The Saudi

government in rare instances, usually involving cases of extreme physical abuse, did jail or fine employers under Articles 229-242 of its Labor Law. Additionally, although the Saudi government asserted that Shari'a (Islamic) law could be used to prosecute trafficking offenses, in practice there have been no prosecutions. However, with the comprehensive anti-trafficking law criminalizing all forms of human trafficking and outlining jail time and fines for specific acts, it is now possible that the Saudis will use the new legislation as a basis for making some arrests. However, the law does not specifically note the common practice of passport holding and exit-visa denial present in most trafficking cases in the Kingdom and therefore, the actual cases prosecuted under the new legislation may be limited. The law does not secure the rights of victims to remain in Saudi Arabia during the investigation and court proceedings, a circumstance which may further impede the chances of seeing any actual convictions.

1B. TAKE STEPS TO DEVELOP AND IMPLEMENT A FORMAL PROTOCOL TO IDENTIFY TRAFFICKING VICTIMS

The interministerial working group is currently drafting a comprehensive strategy which includes a systematic process to identify all types of trafficking victims. Al-Rassi indicted that the Saudi government is very interested in U.S. assistance in developing victim identification programs and training law enforcement and social services personnel. The Department of Homeland Security Immigration and Customs Enforcement (DHS-ICE) has successfully conducted several anti-trafficking programs focused on confronting and combating human trafficking in neighboring Bahrain for law enforcement officials and judges.

B.1 ACTION REQUEST: Unless Department objects, Post will coordinate with DHS-ICE to determine what anti-trafficking programs and technical assistance we might be able to offer to HRC, MOI, MOJ, MOL, MOCI, MOSA and other law enforcement and social services personnel.

1C. DRAFT AND TAKE STEPS TO ENACT A COMPREHENSIVE ANTI-TRAFFICKING LAW

The Saudi government recently enacted a comprehensive anti-trafficking law which broadly defines and prohibits trafficking in a way that could potentially be used to prosecute a wide variety of offenses. At the same time,

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however, the new legislation does not adequately maintain the integrity of the investigation and prosecution of trafficking crimes. Contemporaneously, the Council of Ministers adopted a GCC-wide anti-trafficking measure. A new Anti-trafficking Unit to be established in the NCHR will oversee the implementation of the anti-trafficking law and coordinate among the ministries involved including the MFA, MOI, MOJ, MOSA and MOCI. Realizing that implementing the new legislation will be difficult, the Saudi government has created an interministerial committee to develop a strategic implementation plan.

1D. ENSURE THAT TRAFFICKING VICTIMS ARE NOT DETAINED OR PUNISHED FOR ACTS COMMITTED AS A RESULT OF BEING TRAFFICKED

In addition to the new anti-trafficking legislation, the Saudi government created a high-level ministerial committee to follow up on victims of human trafficking to ensure that the victims are not harmed or punished for acts committed as a result of being trafficked. Additionally, the committee can make recommendations to allow victims to remain in the Kingdom or will coordinate repatriation of such victims to their countries. This committee will approve the final strategic implementation plan of the new legislation.

Although the NCHR will play a leading role, it is still unclear to whom this committee will report or whether it will be sufficiently empowered to carry out its role.

1E. CONTINUE TO CONDUCT A BROAD PUBLIC AWARENESS CAMPAIGN

There has been limited effort to raise awareness about human trafficking and thus, the campaign has been largely ineffective to date. However, as part of the new implementation strategy of the anti-trafficking law, a revamped public awareness campaign is planned. Al-Rassi indicated that the Saudi government is interested in developing new public awareness programs in cooperation with the U.S. government.

1F. TAKE STEPS TO REFORM OR ELIMINATE THE CURRENT LABOR SPONSORSHIP SYSTEM

The Shura Council recently passed a new domestic workers rights law - something that has been under discussion for years. Shura Council resolutions are non-binding until passed by the Council of Ministers and implemented by Royal Decree to have the force of law; while it is difficult to predict how long this process might take, it is not likely that this law will be passed within the 60-day limit specified by the TIP Action Plan. At present, the current protections for workers offered under the Labor Law do not apply to domestic workers. Although the new draft law does not eliminate the labor sponsorship system, it proposes significant reforms to increase the rights and protections of workers and includes penalties against abusive employers.

1G. TAKE STEPS TO ENSURE THE FREEDOM OF MOVEMENT OF ALL LABORERS

Although the Saudi government requires exit visas for all foreigners, this policy creates a major hardship for laborers and in particular, domestic workers by restricting their movement in and out of the country. Currently, the exit visa policy is not under discussion and the Saudi government is unlikely to change this policy in the near future. Additionally, Saudi law does not prohibit Saudi employers from holding passports of foreign workers, creating an additional impediment towards free movement.

G.1 ACTION REQUEST: Post requests that Department provide examples of how the exit visa/passport holding issue has been addressed elsewhere, to allow us to approach the Saudi government on this important issue with credible examples of successful efforts at reform in other countries.
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